

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

EUGENE M. COSTA,)
Plaintiff,)
v.) CIVIL ACTION 11-0297-WS-N
SAM'S EAST, INC.,)
Defendant.)

ORDER

This matter comes before the Court on plaintiff's Motion for Leave to Amend the Complaint to Substitute Parties (doc. 63). Plaintiff, Eugene M. Costa, died on March 29, 2012. In accordance with Rule 25(a), Fed.R.Civ.P., plaintiff has now filed a motion to substitute Eva Costa, who is Costa's widow, as the named plaintiff herein. In support of this Motion, plaintiff shows that the Baldwin County Probate Court granted Letters Testamentary to Eva Costa on July 9, 2012, to administer Eugene Costa's estate. The Letters Testamentary confirm that Eva Costa has all the powers authorized by Alabama Code § 43-2-843, which would include the power to prosecute this action for the benefit of the estate. *See Ala. Code §43-2-843(18)* (providing that a personal representative, acting prudently for the benefit of interested persons, may properly “[p]rosecute or defend claims or proceedings in any jurisdiction for the protection or benefit of the estate”). As such, it is clear that Eva Costa is now the proper plaintiff in this action.

For all of these reasons, the Motion to Substitute Parties is **granted**, without the need for plaintiff to refile the Complaint to effect the change. Henceforth, all filings in this action should identify the plaintiff in the style of the action as “EVA COSTA, as Personal Representative for the Estate of EUGENE M. COSTA, deceased.” The Clerk of Court is **directed** to make an appropriate notation on the docket sheet to reflect the substitution.

DONE and ORDERED this 13th day of July, 2012.

s/ WILLIAM H. STEELE
CHIEF UNITED STATES DISTRICT JUDGE